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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,089

05/25/2007

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EXAMINER

STORMER, RUSSELL D

ART UNIT

PAPER NUMBER

3617

NOTIFICATION DATE

DELIVERY MODE

06/09/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/588,089	<b>Applicant(s)</b> FUJITA, YASUAKI	
	<b>Examiner</b> RUSSELL STORMER	<b>Art Unit</b> 3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 and 11 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 4, 2011 has been entered.

***Response to Amendment***

The amendment to the claims filed on April 4, 2011 does not comply with the requirements of 37 CFR 1.121(c) because the status identifier for claim 1 is incorrect.

Claim 1 is identified as being “previously presented” when in fact it should be identified as “currently amended.”

***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the “distorted S-shaped” configuration described in line 13 of paragraph 0017 of the specification.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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“amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter.

There is no clear antecedent basis for the limitation added to claim 1 for a central portion of each of the rubber lugs is disposed to “correspond” to the stepped portion of the track.

As described in paragraph 0017 of Applicant’s specification as originally filed, the lugs 15 include a distorted H-shaped (line 13 of the paragraph incorrectly calls this an S-shape; but line 8 describes the H-shape and figure 2 shows an H-shaped lug) configuration, with a cross-linking portion 15a formed at the center of each lug (connecting the two sides of the H). This paragraph goes on to describe the cross-linking portion 15a as corresponding to the stepped portion 16.

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Therefore, the specification does not provide support for "a central portion of the rubber lugs" corresponding to the stepped portion.

See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

### ***Claim Objections***

Claim 3 is objected to because of the following informalities:

The phrase beginning in line 2 with "wherein" and ending in line 3 with "elastic body" should be deleted as being redundant because this limitation has been added to claim 1 in the amendment filed April 4, 2011.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komatsu '955 in view of JP 03-19785.

Komatsu '955 (JP 2002-127955) discloses a coreless rubber crawler track assembly having a plurality of longitudinal cord rows 5; rubber projections 3 on the inner surface of the track; rubber lugs 4 on outer surface of the track; and a roller 10 which straddles the projections 3 and contacts the inner surface of the track. The roller 10 may be provided with areas of

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reduced diameter 15, 15a, 15b as shown in figures 1-3 which reduce the contact area of the outer peripheral surface of the roller where the roller contacts the track. The endless crawler track does not include stepped portions or upper and lower stage surfaces.

Japanese Published Utility Model Application 03-19785 (hereafter JP 03-19785) teaches an endless crawler track assembly having projections 5 on its inner surface and a roller 6 which straddles the projections. The endless track further includes raised or stepped portions on its inner surface on either side of the projections. The raised portions (unlabelled, but clearly visible in figures 2, 3, 4, and 6) form an upper stage surface on which a reduced contact (6a in figure 4) of the roller rests. A portion 17 of the roller overlies a lower stage surface of the track, and a step is disposed between the upper and lower stage surfaces. As shown in figures 2 and 4, a central portion of each of the rubber lugs on the bottom or outer surface of the track corresponds to stepped or raised portions. As shown in figure 4 approximately 50% of the outer periphery of the roller contacts the inner surface of the track.

From this teaching it would have been obvious to modify the endless track of Komatsu '955 to have a stepped portion corresponding to a central portion of the traction lugs and separating the inner surface of the track into an upper stage surface and a lower stage surface such that the roller had a reduced contact area with the inner surface of the track, and the roller had a portion which would overlie the lower stage surface. This would perform the same function as in the Komatsu track by substituting a stepped track for a stepped roller, and would be useful in tracks which have a thickened central region. The lower stage surface would also make the outer sides of the track more flexible and thus better able to absorb deflection from rocks or other obstacles.

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***Allowable Subject Matter***

Claims 7 and 11 are allowable over the art of record.

***Response to Arguments***

Applicant's arguments filed April 4, 2011 have been fully considered but they are not persuasive.

The arguments have been considered, but the references still meet the limitations of the amended claims as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Russell D. Stormer/  
Primary Examiner, Art Unit 3617